IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5218 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RANCHHODBHAI KOYABHAI CHAMAR

Versus

STATE OF GUJARAT

Appearance:

MR Dharmesh Shah for YN RAVANI for Petitioners

Mrs. R.V. Acharya,GOVT PLEADER for Respondent No. 1

NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 24/08/2000

ORAL JUDGEMENT

1. The petitioners challenge the order dated 24-9-1991 at Annexure-E to the petition passed by the State Government, rejecting the Revision Application of the petitioners, in which they had challenged the order

dated 11-8-1989 of the Collector rejecting their application for grant of land in question situated at the outskirts of village Mohijada.

2. The applicants are poor Scheduled Caste persons, who had approached the Collector for allotment of land out of the Gaucharland which could be used for cultivation. According to them, the Panchayat had recommended the grant of land to them, but this aspect was not duly considered by the Collector.

3. The State Government in exercise of its revisional jurisdiction found that the Gauchar land could not be given for cultivation and that the applicants should take training for other vocations. It was also observed that the Panchayat should not recommend grant of Gauchar land for cultivation and that, such a resolution of the Panchayat had no value. It was further observed that the applicants should not have asked for grant of Gauchar land to them.

4. The observation of the revisional authority that the applicants should undertake training for some other vocation rather than ask for land for cultivation is virtually adding insult to injury. Applicants are poor persons belong to Scheduled Caste of Harijans, and when the Panchayat itself had made a recommendation in their favour for grant of some of the Gauchar land to them for cultivation, that could not have been brushed aside by observing that the applicants should take up some other vocation. A Division Bench of this Court in Bhupatbhai Ogadbhai & Ors. Vs. State of Gujarat, reported in 1995 (2) GLH, 219, while dealing with a similar situation observed that, where the land is not abundant but there are large number of landless people who do not have any space to stay or cultivate, it would be in the public interest to give land to them even at the expense of a part of grazing land. The revisional authority has in the present case adopted a diametrically opposite attitude which cannot be sustained. The impugned order of the revisional authority at Annexure-E to the petition dated 24-9-1991 is therefore set aside with a direction that, the revisional authority shall consider the matter afresh, in light of the ratio of the decision of this Court in Bhupatbhai Ogadbhai & Ors case (supra) and take an appropriate decision expeditiously, in accordance with law and after hearing the petitioners. Rule is made absolute accordingly, with no order as to costs.

Dt: 24-8-2000 (R.K. Abichandani, J)

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